



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,132	06/24/2003	James L. McNaughton	SU-7273	9882
2071	7590	03/13/2006	EXAMINER	
SIEBERTH & PATTY, LLC 4703 BLUEBONNET BLVD BATON ROUGE, LA 70809			CORBIN, ARTHUR L	
			ART UNIT	PAPER NUMBER

1761

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,132

Applicant(s)

MCNAUGHTON, JAMES L.

Examiner

Arthur L. Corbin

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11-10-03 and 02-02, 07-12, 10-18 and 12-06-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☒ Claim(s) 2, 6, 7, 11, 17, 23 and 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 111003, 020204, 071204, 101804, 120604
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1761

1. Claims 2, 6, 7, 11, 17, 23 and 49 are objected to because of the following informalities: In claim 2, line 2, "an" should be added before "apparatus". In claim 6, "and" should be added after the semicolon in step b). In claim 7, line 6, "wherein" should be one word and line 7, "is" should be changed to "are". In claim 11, line 6, "of" should be changed to "on". In claim 17, line 5, "of" should be added before "said". In claim 23, line 7, "of" should be changed to "on" and in lines 8 and 9, "eviscerating" and "eviscerated" are misspelled. In claim 49, line 2, "an" should be added before "apparatus" and "carcass" made plural and line 3, "is" should be changed to "are". Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 45 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis in claim 44 for "said washing apparatus" (claim 45, line 1). Claims 45 and 46 are indefinite since the recitation of "spray delivery system" in claims 45 and 46 is inconsistent with claim 44, which requires "immersion". Corrections are required without new matter.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1761

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 5/1, 5/2, 6, 7, 10/6, 10/7, 11-16, 18-20, 22/11,15,19,20, 23-28, 30-32, 34-37, 39-41, 43/36, 44, 45, 47/44,45, 48, 49 and 52/48,49 are rejected under 35 U.S.C. 102(e) as being anticipated by Howarth (6,908,636, cols. 2-4, 7 and 13-15 and the claims) or Howarth (6,986,910, cols. 2-5 and 10-12 and the claims). Both patents disclose treating eviscerated poultry carcasses by an inside-outside washing procedure wherein a microbiocidal solution of water and 1,3-dibromo-5,5-dialkylhydantoin, e.g. where alkyl is methyl, is sprayed onto the outside and inside of the carcasses or the outside and inside of the carcasses are immersed therein in a scald tank and in a chill tank.

7. Claims 17, 21, 22/17, 29, 33, 38, 42, 43/38,42, 46 and 47/46 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Howarth patents. Finding the optimum concentration of the microbiocidal solution used for the outside and inside treatment of the poultry carcasses would require nothing more than routine experimentation by one reasonably skilled in this art.

Art Unit: 1761

8. Claims 3, 4, 5/3, 5/4, 8, 9, 10/8, 10/9, 50, 51, 52/50 and 52/51 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Howarth patent in view of Hilgren et al (6,514,556, col. 17). It would have been obvious to perform the inside-outside washing in either Howarth patent by the procedure claimed by applicant wherein a spray is used to treat the outside of the carcasses and a spray probe is used to treat the inside of the carcasses since such a procedure is well known in treating eviscerated poultry carcasses with a microbiocidal solution to reduce contamination thereof, as evidenced by Hilgren et al.

9. The disclosure is objected to because of the following informalities: The first paragraph on page 1 of the spec. has omitted the current status of many of the applications listed therein.

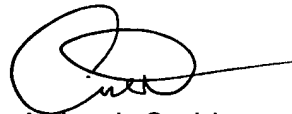
Appropriate correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday-Friday from 10:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur L Corbin
Primary Examiner
Art Unit 1761

2-6-06